

REMARKS/ARGUMENTS

Claims 1 – 17, and 19 - 21 are pending in the present application. Claim 18 has been canceled. Claims 1 - 15 have been amended to better describe the present invention. Claims 19 - 21 have been added. No new matter has been added.

1. The Examiner has provisionally rejected claims 1 – 18 under the judicially created doctrine of double patenting over claims 1 – 28 and claims 1- 114 of copending Application No. 09/345,827 (now granted) and 10/115,727 (notice of allowance), respectively.

Applicant contends that the provisional rejection is now improper because the claimed subject matter, as amended, is not fully disclosed in the referenced copending applications and would not be covered by any patent granted on the copending applications. The present invention is claiming a control system and a method of controlling the velocity of fluid through a pipe of an industrial process. The above-referenced copending patent applications do not teach or suggest such a method or control system, and therefore, could not be claim in the copending application.

Accordingly, Applicant submits that the nonstatutory double patenting rejection be withdrawn. Applicant would also like to make the Examiner aware that the assignee of the present invention and the assignee of the present copending patent applications are not the same.

2. Claim 9 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Claim 9 has been amended, and Applicant respectfully requests that the rejection be withdrawn.

3. Claims 1 – 4, 12 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lew (5,152,181).

Claims 1 and 12, respectively, have been amended to claim a control system having a “processor that provides a control signal, in response to the velocity signal, to a flow device that controls the velocity of the fluid to a desired rate”, and a method having the step of “providing a

control signal, in response to the velocity signal, to a flow device that controls the velocity of the fluid to a desired rate”.

Lew does not disclose, teach or suggest such a control system or method as claimed by the Applicant. Lew simply provides a mass-volume vortex flowmeter.

Applicant respectfully traverses Examiner’s rejection for at least the reasons provided above. Therefore, Applicant respectfully submits that claims 1 and 12 are not rendered obvious and it is respectfully requested that these claims be reconsidered and allowed.

4. Claims 2 – 11, and 13 - 21 variously depend on independent claims 1 or 12, and therefore are not rendered obvious by Lew, and it is respectfully requested that these claims be reconsidered and allowed for at least the reasons provided hereinbefore.

5. Claim 18 has been cancelled, and therefore the rejection of this claim is rendered moot.

6. The Examiner did not explicitly address the allowance of claims 5 – 11 and claims 13 – 17. Applicant is therefore assuming that these claims would be allowable if rewritten in independent form.

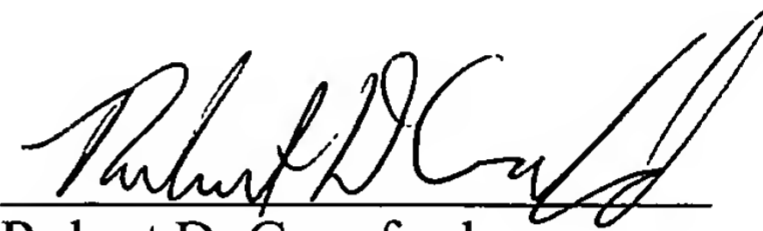
7. In view of the foregoing, it is respectfully requested that claims 1 - 17, as well as newly added claims 19 - 21, be reconsidered and allowed based on at least the reasons provided hereinbefore.

8. In view of the foregoing, it is respectfully requested that the application be reconsidered and allowed. If the Examiner is not prepared to allow all the claims in view of the discussion herein, Applicant hereby respectfully requests a phone interview with the Examiner at the Examiner’s earliest convenient. Applicant’s counsel can be reached at 203-265-0035 ext. 3502 or 203-626-3502 (direct dial) between the hours of 8:00 a.m. and 5:00 p.m., or by E-mail at rcrawford@cidra.com.

9. A petition for a three-month extension of time under 37 CFR 1.136 is submitted herewith. Please charge the fee of **\$930.00** for the extension of time to Deposit Account No. 50-0260 Order No. CC-0122A. Any deficiency or overpayment should be charged or credited to this deposit account.

Respectfully submitted,

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